

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/750,478 Confirmation No. 9847  
Applicant : Jeffrey S. Doyel, et al.  
Filed : 12/31/2003  
Title : COMPUTERIZED SYSTEM AND METHOD FOR GENERATING  
AND SATISFYING HEALTH MAINTENANCE ITEM  
EXPECTATIONS IN A HEALTHCARE ENVIRONMENT  
Group Art Unit : 3626  
Examiner : Eliza Anne Lam  
Docket No. : CRNL110337  
Customer No. : 46169

**VIA EFS – JUNE 15, 2011**

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR TWO-MONTH EXTENSION OF TIME, SUBMISSION IN SUPPORT  
OF REQUEST FOR CONTINUED EXAMINATION, AND AMENDMENT UNDER 37  
C.F.R. § 1.116**

It is hereby requested that the time period for responding to the subject final Office Action be extended for two (2) months, or until July 7, 2011. The appropriate extension fee under 37 C.F.R. § 1.17(a)(3) is submitted herewith.

Applicants respectfully request continued examination of the above-identified Application. The following is in accordance with the requirements for submission under 37 C.F.R. § 1.114(c) and MPEP 706.07(h), Sec. II. The present communication is submitted in response to the Examiner's remarks in the final Office Action mailed February 7, 2011, the three-month statutory period for response to which expired on May 7, 2011. In response to the final Office Action, please consider the following:

**Amendments to the Claims:** are reflected in the Listing of Claims that begins on page 2 of this paper.

**Remarks:** begin on page 18 of this paper.

## **AMENDMENTS TO THE CLAIMS**

Prior to the present communication, claims 1-16, 23-46 and 48 were pending in the subject application. All claims currently pending and under consideration in the present application are shown below. This listing of claims will replace all prior versions, and listings, of claims in the application and is presented here for convenience of the Examiner:

### **Listing of Claims:**

1. (Currently Amended) A method in a computer system for automatically determining that an expectation for a health maintenance item has not been satisfied, the method comprising:

obtaining patient information for a patient from an electronic medical record;

accessing one or more health maintenance items from a database or table using a computing device, wherein health maintenance items include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

accessing one or more factors from a database or table using the computing device, the one or more factors associated with the one or more health maintenance items, the factors useable to determine whether the patient qualifies for the one or more health maintenance items;

applying the one or more factors to the patient information utilizing [[a]] the computing device, wherein the computing device applies the one or more

factors to the patient information to generate an expectation for at least one health maintenance item for [[a]] the ~~person~~ patient;

automatically and without human intervention determining that the expectation for the at least one health maintenance item has not been satisfied;

determining more than one satisfier for the unsatisfied expectation for the at least one health maintenance item, the more than one satisfier including an order, a procedure, or a result value;

displaying the more than one satisfier for the unsatisfied expectation;

receiving a selection of a first satisfier of the more than one satisfier utilizing an input area associated with the satisfier;

storing the first satisfier for display in a health maintenance schedule associated with the patient; and

displaying the health maintenance schedule associated with the patient, including the first satisfier.

2. (Previously Presented) The method of claim 1, wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation.

3. (Previously Presented) The method of claim 1, wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if a procedure has been documented.

4. (Previously Presented) The method of claim 1, wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if one or more result values exist for the expectation.

5. (Cancelled)

6. (Cancelled)

7. (Original) The method of claim 1, wherein the health maintenance item is one of a test, screening, therapy, and medication.

8. (Original) The method of claim 1, further comprising:  
receiving a request for health maintenance items for a patient.

9. (Original) The method of claim 8, further comprising:  
wherein the request is from a user.

10. (Cancelled)

11. (Cancelled)

12. (Previously Presented) The method of claim 1, further comprising:  
applying more than one factor to generate an expectation for the one or more health maintenance items.

13. (Previously Presented) The method of claim 12, further comprising:

comparing the information for the person with the more than one factor to determine the person qualifies for one or more of the one or more recommended health maintenance items.

14. (Original) The method of claim 13, further comprising:

generating an expectation for each of the health maintenance items for which the patient qualifies.

15. (Currently Amended) A method in a computer system for generating satisfiers for an expectation for a health maintenance item, the method comprising:

receiving data associated with a person from electronic records;

obtaining, utilizing a computing device, one or more satisfied health maintenance item expectations and one or more unsatisfied health maintenance item expectations for the person, wherein at least one priority is determined for the one or more unsatisfied health maintenance item expectations, and wherein health maintenance item expectations include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

displaying the one or more satisfied health maintenance item expectations and the one or more unsatisfied health maintenance item expectations along with the at least one priority for the one or more unsatisfied health maintenance item expectations on a user interface using the computing device, the one or more satisfied health maintenance item expectations and the one or more unsatisfied

health maintenance item expectations being displayed in the same viewable area on the user interface;

obtaining possible satisfiers for each of the one or more unsatisfied expectations, wherein the computing device determines the possible satisfiers by comparing the one or more unsatisfied expectations to information from a database;

displaying the possible satisfiers for each of the one or more unsatisfied expectations ~~utilizing a~~ on the user-interface using the computing device, the possible satisfiers in the same viewable area as the one or more unsatisfied expectations;

receiving, by the computing device, a request for details associated with at least one of the possible satisfiers;

displaying the details based on the request, wherein the details are displayed in a separate screen utilizing the user-interface;

receiving a selection of at least one of the possible satisfiers; and

storing the at least one selected possible satisfier in association with the person, wherein the storage of the selected possible satisfier updates a health maintenance schedule for the person.

16. (Original) The method of claim 15, wherein possible satisfiers are obtained from a pre-defined list for each health maintenance item stored in a database.

17-22. (Canceled)

23. (Previously Presented) A computerized system embodied on one or more computer readable media that include one or more modules for automatically determining whether an expectation for a health maintenance item has been satisfied, the system comprising:

a generating module for generating an expectation for a health maintenance item for a person based on medical information associated with the person, wherein the health maintenance item include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

a determining module, utilized by a computing device, for automatically determining the expectation has not been satisfied, wherein the computing device determines the expectation has not been satisfied based on information from a database;

a first displaying module for displaying the expectation that has not been satisfied;

a first receiving module for receiving an input indicating the expectation has been satisfied;

a first storing module for storing the input indicating the expectation has been satisfied;

a second displaying module for displaying a schedule for the person, wherein the schedule includes an indication the expectation has been satisfied;

a selecting module for selecting to view one or more details of the satisfied expectation; and

a third displaying module for displaying the one or more details of the satisfied expectation.

24. (Previously Presented) The system of claim 23, wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation.

25. (Previously Presented) The system of claim 23, wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if a procedure has been documented.

26. (Previously Presented) The system of claim 23, wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if one or more result values exist for the expectation.

27. (Previously Presented) The system of claim 23, wherein the expectation is satisfied by receiving input indicating an order for a satisfier for the expectation.

28. (Previously Presented) The system of claim 23, wherein the expectation is satisfied by receiving input indicating a result that is a satisfier for the expectation.

29. (Cancelled)

30. (Previously Presented) The system of claim 23, further comprising:



a first obtaining module for obtaining medical information for the person from the person's electronic medical record in a comprehensive healthcare system.

31. (Original) The system of claim 30, further comprising:

a second obtaining module for obtaining one or more recommended health maintenance items.

32. (Original) The system of claim 31, further comprising:

a third obtaining module for obtaining the factors that would qualify a person for the one or more health maintenance items.

33. (Previously Presented) The system of claim 32, further comprising:

a comparing module for comparing the information for the person with the qualification factors to determine the person qualifies for one or more of the one or more recommended health maintenance items.

34. (Previously Presented) The system of claim 23, further comprising:

a second storing module for storing the input indicating the expectation has been satisfied in an electronic medical record associated with the person in a comprehensive healthcare system.

35. (Currently Amended) A computerized system embodied on one or more computer readable media that include one or more modules for generating satisfiers for an expectation for a health maintenance item, the system comprising:

a searching module for searching records associated with a person to identify unsatisfied health maintenance item expectations;

a first obtaining module for obtaining, at a computing device, one or more unsatisfied health maintenance item expectations for the person;

a second obtaining module for obtaining, at the computing device, [[a]] one or more possible satisfier satisfiers for each of the one or more unsatisfied expectations the one or more possible satisfiers including orders, procedures, or result values, the one or more possible satisfiers obtained dependent upon an identity of the one or more unsatisfied expectations;

a first displaying module for displaying the possible satisfier for each of the one or more unsatisfied expectations, wherein the display includes an input area associated with each of the possible satisfiers;

a receiving module for receiving input associated with a first satisfier of the possible satisfier for each of the one or more unsatisfied expectations;

a storing module for storing the input in association with the first satisfier;

a determining module for determining a priority level of the one or more unsatisfied health maintenance item expectations for the person;

an updating module for updating a patient schedule based on the input;

and

a second displaying module for displaying the updated patient schedule, including the first satisfier and the priority level of the one or more unsatisfied health maintenance item expectations.

36. (Original) The system of claim 35, wherein possible satisfiers are obtained from a pre-defined list for each health maintenance item stored in a database.

37. (Currently Amended) A computerized system comprising one or more computing devices capable of processing modules for determining a patient may experience an adverse reaction to a satisfier chosen for an expectation for a health maintenance item, the system comprising:

a first determining module, for determining an expectation for a health maintenance item for a person, utilizing a computing device, wherein the health maintenance item includes tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

a second determining module for automatically determining the expectation has not been satisfied;

a third determining module for determining a recommended satisfier for the expectation, wherein the recommended satisfier is an order for a medication;

a first receiving module for receiving the satisfier for the expectation for the health maintenance item;

a first obtaining module for obtaining, utilizing a first computer process, healthcare information for the person;

a fourth determining module for determining, utilizing a second computer process, the person may have an adverse reaction to the satisfier by comparing information regarding possible adverse reactions to the healthcare information for the person;

a warning module for warning of the possible adverse reaction to the satisfier;

a second receiving module for receiving, utilizing a third computer process, input associated with the satisfier, wherein the first, second and third computer processes are performed on one or more computing devices;

a storing module for storing the input associated with the satisfier, wherein storing the input updates a schedule for the patient; and

a displaying module for displaying the updated patient schedule, including the satisfier, wherein the satisfier is selectable to view the input associated with the satisfier.

38. (Cancelled)

39. (Previously Presented) The system of claim 38, wherein the system determines whether the person is allergic to the medication.

40. (Previously Presented) The system of claim 37, wherein the healthcare information for a person is obtained from the patient's electronic medical record in a comprehensive healthcare environment.

41. (Original) The system of claim 40, further comprising:

a second obtaining module for obtaining information regarding possible adverse reactions to the satisfier from a database.

42. (Previously Presented) The system of claim 37, wherein the satisfier is further selectable to update the input associated with the satisfier.

43. (Currently Amended) Computer-readable media having computer-executable instructions embodied thereon that, when executed, perform a method of automatically determining that an expectation for a health maintenance item has not been satisfied, the method comprising:

searching a set of electronic records for a person;

automatically generating an expectation for a health maintenance item for the person, wherein the health maintenance item includes tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

displaying to a clinician the expectation for the health maintenance item on a user interface using one or more computing devices;

automatically determining without human intervention, utilizing a first computer process on the one or more computing devices, that the expectation has not been satisfied by comparing the expectation to information selected from one or more of the following: the set of electronic records, a database, and a user input;

displaying more than one input option associated with the expectation on the user interface;

receiving a selection of at least one of the input options associated with the expectation;

updating, utilizing a second computer process on the one or more computing devices, the health maintenance item for the person based on the selection of at least one of the input options,

determining, utilizing a third computer process on the one or more computing devices, a health maintenance schedule for the person, ~~wherein the first, second and third computer processes are performed on one or more computing devices~~; and

displaying the health maintenance schedule on the user interface, wherein the schedule includes the updated health maintenance item.

44. (Currently Amended) A computer-readable medium having computer-executable instructions for performing a method, the method comprising:

generating an expectation for a health maintenance item for a person, wherein the health maintenance item include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

automatically and without human intervention determining the expectation has not been satisfied, wherein a computing device determines the expectation has not been satisfied;

displaying a health maintenance schedule for the person, including the unsatisfied health maintenance item, on an interface, wherein the health maintenance schedule includes patient identification information, the unsatisfied health maintenance item, a visual indicator indicating a priority status for the

unsatisfied health maintenance item, and one or more possible satisfiers for the unsatisfied health maintenance item, the one or more possible satisfiers including orders, procedures, or result values;

displaying an input area for receiving requests for additional information associated with the unsatisfied health maintenance item;

receiving a request for the additional information; and

opening a window on the interface, in response to the request, that includes additional information about the unsatisfied health maintenance item.

45. (Currently Amended) A system in a computerized environment for generating satisfiers for an expectation for a health maintenance item, the method comprising:

obtaining one or more unsatisfied health maintenance item expectations for a person by applying factors to information associated with the person, wherein health maintenance item expectations include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

obtaining possible satisfiers for each of the one or more unsatisfied expectations, the possible satisfiers dependent upon an identity of the one or more unsatisfied health maintenance item expectations, the possible satisfiers including orders, procedures, or result values;

displaying the possible satisfiers for each of the one or more unsatisfied expectations;

receiving input associated with a first satisfier of the possible satisfiers for ~~each of the one or more~~ one of the unsatisfied expectations;

determining a priority for the one or more unsatisfied expectations;

updating, utilizing a computing device, a health schedule for the person based on the input; and

displaying the updated health schedule, including the first satisfier and an indication of the priority for the one or more unsatisfied expectations.

46. (Currently Amended) A computer-readable medium having computer-executable instructions for performing a method, the method comprising:

obtaining, utilizing a first computer process, one or more unsatisfied health maintenance item expectations for a person by searching electronic records, wherein health maintenance item expectations include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions;

displaying the one or more unsatisfied health maintenance item expectations on a user interface using a computing device;

obtaining, utilizing a second computer process, possible satisfiers for each of the one or more unsatisfied expectations;

displaying the possible satisfiers for each of the one or more unsatisfied expectations on the user interface, the possible satisfiers displayed in the same viewable area as the one or more unsatisfied health maintenance item expectations;



receiving input associated with a first unsatisfied expectation, wherein the input indicates postponement, refusal or expiration of the first unsatisfied expectation;

storing, utilizing a third computer process, the input in association with the first unsatisfied expectation, wherein the first, second and third computer processes are performed on ~~one or more~~ the computing ~~devices~~ device;

receiving a request for a health maintenance schedule for the person;

displaying the schedule, including the first unsatisfied expectation;

receiving a selection of the first unsatisfied expectation; and

displaying the input associated with the first unsatisfied expectation in response to the selection.

47. (Cancelled)

48. (Cancelled)

### **REMARKS**

The final Office Action mailed February 7, 2011, has been received and reviewed. Prior to the present communication, claims 1-16, 23-46 and 48 were pending in the subject application. Each of claims 1, 15, 23, 35, 37, and 43-46 has been amended herein, claims 5-6, 10-11, 38 and 48 have been cancelled. As such, claims 1-4, 7-9, 12-16, 23-37, and 39-46 remain pending. It is submitted that no new matter has been added by way of the present amendments. Support for the amendments may be found, for example, at paragraphs [0030]-[0035], [0037], [0042]-[0043], [0057] and FIGS. 4-5 of the as-filed Specification. Reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

### **Rejection of Affidavit/Declaration**

While acknowledging Examiner's response to the Affidavit/Declaration under 37 C.F.R. § 1.131, Applicants respectfully disagree that the declaration filed on April 28, 2010 was ineffective to overcome the Merkin reference. However, in the interest of moving prosecution forward, Applicants respectfully request that the Examiner consider the amendments and arguments set forth below.

### **Rejections based on 35 U.S.C. § 103**

#### **A.) Applicable Authority**

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in Graham v.

John Deere counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations.<sup>1</sup> To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in Graham and to provide some articulated reason, suggestion, or motivation, found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention.<sup>2</sup> Recently, the Supreme Court elaborated, at pages 13-14 of the *KSR* opinion, that “it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application].”<sup>3</sup> Accordingly, in order to establish a *prima facie* case of obviousness, the Office shall provide a “clear articulation of the reason(s) why the claimed invention would have been obvious” based on factual findings upon applying the *Graham* factual inquiries.<sup>4</sup>

B.) Obviousness rejection based upon U.S. Patent No. 7,464,041 to Merkin et al. in view of U.S. Publication No. 2003/0208391 to Dvorak et al.

Claims 1-7, 15, 16, 23-36 and 43-46 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 7,464,041 to Merkin et al. (hereinafter Merkin) in view of U.S. Publication No. 2003/0208391 to Dvorak et al. (hereinafter Dvorak). As a *prima facie* case

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<sup>1</sup> *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

<sup>2</sup> *See, Application of Bergel*, 292 F. 2d 955, 956-957 (1961).

<sup>3</sup> *KSR v. Teleflex*, No. 04-1350, 127 S.Ct. 1727 (2007).

<sup>4</sup> MPEP § 2143

of obviousness cannot be established for the rejected claims based upon the cited references, Applicants respectfully traverse the rejection of claims 1-4, 7, 15, 16, 23, 25-36, and 43-46.

1. Independent Claim 1

Independent claim 1 is directed to a method for automatically determining that an expectation for a health maintenance item has not been satisfied. The claim recites in part, “obtaining patient information for a patient from an electronic medical record; accessing one or more health maintenance items from a database or table using a computing device, *wherein health maintenance items include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions; accessing one or more factors from a database or table using a computing device*, the one or more factors associated with the one or more health maintenance items, the factors useable to determine whether the patient qualifies for the one or more health maintenance items; applying the one or more factors to the patient information utilizing a computing device, wherein the computing device applies the one or more factors to the patient information to generate an expectation for at least one health maintenance item for the person; automatically *and without human intervention* determining that the expectation for the at least one health maintenance item has not been satisfied; *determining more than one satisfier for the unsatisfied expectation for the at least one health maintenance item, the more than one satisfier including an order, a procedure, or a result value; displaying the more than one satisfier for the unsatisfied expectation . . .*” (emphasis added). Support for this amendment may be found, for example, at paragraphs [0038]-[0040] of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.,* Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.,* at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient's unique circumstances. *See id, e.g.,* at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.,* col. 11, ll. 37-53.

The invention disclosed in Merkin is not tied to a computer in any significant way. The only mention of a computerized system in Merkin is an electronic medical record that is used to access a patient's health information. *See, e.g.,* Merkin at col. 3, ll. 10-14. Thus, *the determination that a patient meets the criteria to receive preventative care is necessarily performed by a human, which can lead to errors.*

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.,* Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.,* at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.,* at ¶ [0035].

By contrast, the invention of claim 1 recites *determining more than one satisfier for the unsatisfied expectation for the at least one health maintenance item, the more than one satisfier including an order, a procedure, or a result value.* As can be seen, in independent

claim 1, orders, procedures, or result values can be satisfiers for the health maintenance item. This differs from Merkin where scheduling an appointment is a satisfier. *See* Office Action at p. 6. Further, the invention of claim 1 also differs from Merkin in that the determination that a patient has not satisfied the health maintenance item is done automatically *and without human intervention* helping to reduce human-error.

In addition, Dvorak fails to teach determining and displaying more than one satisfier for the unsatisfied expectation for the ***at least one health maintenance item*** as recited in claim 1. As set out in claim 1, a health maintenance item includes tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions. The “satisfiers” in Dvorak consist only of an array of available appointment times made available to the patient so they can schedule a follow-up appointment with a doctor. These follow-up appointments times do not satisfy a health maintenance item as it is defined above. Further, the satisfiers recited in claim 1 include orders, procedures, and result values. An appointment does not fall into this category.

Among other distinctions between claim 1 and Merkin and Dvorak, the ability to determine and display more than one satisfier for a health maintenance item where a satisfier includes an order, a procedure, or a result value clearly distinguishes claim 1 from Merkin and Dvorak, as it is not described in either.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 1. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 1 is respectfully requested.

Thus, as amended independent claim 1 has been distinguished from Merkin and Dvorak, it is respectfully submitted that dependent claims 2-4, and 7 fail to be rendered obvious based upon the asserted references, alone or in combination, for at least the above-stated reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of these claims is respectfully requested. Claims 1-4 and 7 are believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 5-6 have been cancelled by way of the present communication and, as such, the 35 U.S.C. § 103(a) rejection thereof has been rendered moot.

2. Independent Claim 15

Independent claim 15, as amended herein, is directed to a method for generating satisfiers for an expectation for a health maintenance item. The claim recites in part, “receiving data associated with a person from electronic records; obtaining, utilizing a computing device, one or more satisfied health maintenance item expectations and one or more unsatisfied health maintenance item expectations for the person, wherein *at least one priority is determined for the one or more unsatisfied health maintenance item expectations*, and wherein health maintenance item expectations include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions; *displaying the one or more satisfied health maintenance item expectations and the one or more unsatisfied health maintenance item expectations along with the at least one priority for the one or more unsatisfied health maintenance item expectations on a user interface using the computing device, the one or more satisfied health maintenance item expectations and the one or more unsatisfied health maintenance item expectations being displayed in the same viewable area on the user interface*; obtaining possible satisfiers for each

of the one or more unsatisfied expectations, wherein the computing device determines the possible satisfiers by comparing the one or more unsatisfied expectations to information from a database; displaying the possible satisfiers for each of the one or more unsatisfied expectations on the user-interface using the computing device, *the possible satisfiers in the same viewable area as the one or more unsatisfied expectations . . .*" (emphasis added). Support for this amendment may be found, for example, at paragraphs [0057]-[0059] and FIG. 4 of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.*, Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.*, at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient's unique circumstances. *See id, e.g.*, at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.*, col. 11, ll. 37-53.

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.*, Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.*, at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.*, at ¶ [0035].



By contrast, the invention of claim 15 provides a user interface that allows a clinician to easily view satisfied health maintenance item expectations and unsatisfied health maintenance item expectations at the same time (see, for example, FIG. 4 of the as-filed Specification) in order to gain a comprehensive picture of a patient's preventative health measures needs. As well, the clinician can view a priority for the unsatisfied expectations along with possible satisfiers for the unsatisfied expectations.

Although Merkin discusses preventative health measures, *it does not disclose a user interface that displays the satisfied preventative health measure, the unsatisfied preventative health measures, along with possible satisfiers and priorities for the unsatisfied preventative health measures*. Nor does Dvorak cure this deficiency. Dvorak only displays available appointment times (which the Examiner equates to satisfiers). *It does not appear that the appointment times are displayed in the same viewable area as the one or more unsatisfied expectations*.

Among other distinctions between claim 15 and Merkin and Dvorak, *the ability to provide a user interface that allows a clinician to easily view satisfied health maintenance item expectations and unsatisfied health maintenance item expectations at the same time* clearly distinguishes the present invention from Merkin and Dvorak as it is not described in either. Further, *the ability to provide an interface that allows the clinician to view a priority for the unsatisfied expectation along with possible satisfiers for the expectation* also distinguishes claim 15 from Merkin and Dvorak as it is not described in either.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 15. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 15

is respectfully requested.

Thus, as amended independent claim 15 has been distinguished from Merkin and Dvorak, it is respectfully submitted that dependent claim 16 fails to be rendered obvious based upon the asserted references, alone or in combination, for at least the above-stated reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of this claim is respectfully requested. Claims 15-16 are believed to be in condition for allowance and such favorable action is respectfully requested.

3. Independent Claim 23

Independent claim 23, as amended herein, is directed toward a system for determining whether an expectation for a health maintenance item has been satisfied. The claim recites in part, “a generating module for generating an expectation for a health maintenance item for a person based on medical information associated with the person, *wherein health maintenance items include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions*; a determining module, utilized by a computing device, for automatically determining the expectation has not been satisfied, wherein the computing device determines the expectation has not been satisfied based on information from a database; a first displaying model for displaying *the expectation that has not been satisfied . . .*” (emphasis added). Support for this amendment may be found, for example, at paragraphs [0037] and [0042] of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.*, Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the

criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.,* at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient's unique circumstances. *See id, e.g.,* at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.,* col. 11, ll. 37-53.

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.,* Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.,* at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.,* at ¶ [0035].

Dvorak does not appear to disclose a *first displaying module for displaying the expectation*. Instead, Dvorak appears to display a list of possible satisfiers in the form of available appointment times. But *a satisfier is not equivalent to an expectation*. An expectation is basically a health maintenance item (a preventative health measure) for which a patient is qualified. Dvorak does not display this type of information.

Among other distinctions between claim 23 and Merkin and Dvorak, *a first displaying module that displays the expectation that has not been satisfied* clearly distinguishes claim 23 from the asserted references. As mentioned, Merkin does not display the expectation that has not been satisfied. Dvorak displays possible satisfiers in the guise of available appointment times, but also does not display the expectation itself.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 23. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 23 is respectfully requested.

Thus, as amended independent claim 23 has been distinguished from Merkin and Dvorak, it is respectfully submitted that dependent claims 24-34 fail to be rendered obvious based upon the asserted references, alone or in combination, for at least the above-stated reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of this claim is respectfully requested. Claims 23-34 are believed to be in condition for allowance and such favorable action is respectfully requested.

4. Independent Claim 35

Independent claim 35, as amended herein, is directed toward a computer system for generating satisfiers for an expectation for a health maintenance item. The claim recites in part, “a second obtaining module for obtaining, at the computing device, *one or more possible satisfiers for each of the one or more unsatisfied expectations the one or more possible satisfiers including orders, procedures, or result values, the one or more possible satisfiers obtained dependent upon an identity of the one or more unsatisfied expectations*; a first displaying module for displaying the possible satisfier for each of the one or more unsatisfied expectations, wherein the display includes an input area associated with each of the possible satisfiers . . .” (emphasis added). Support for this amendment may be found, for example, at paragraphs [0058]-[0061] of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.*, Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.*, at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient's unique circumstances. *See id, e.g.*, at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.*, col. 11, ll. 37-53.

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.*, Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.*, at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.*, at ¶ [0035].

The invention of claim 35 differs from Dvorak because *the type of satisfier depends on an identity of the unsatisfied health maintenance item expectation*. For example, if the health maintenance item expectation is ischemic heart disease, then the possible satisfier includes aspirin therapy (see paragraph [0058] of the as-filed Specification). On the other hand, if the health maintenance item expectation is colorectal screening, then the possible satisfiers include hemoccult testing, sigmoidoscopy, and colonoscopy (see FIG. 4 of the as-filed Specification). As can be seen, the satisfiers depend on the type or identity of the health

maintenance item expectation. By contrast, Dvorak only obtains and displays one type of satisfier – available appointment times.

Among other distinctions between claim 35 and the asserted references, the ability to obtain one or more possible satisfiers based upon an identity of the health maintenance item expectation clearly distinguishes claim 35 from the asserted references as it is not described in either reference. As mentioned, Dvorak only obtains and displays one type of satisfier.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 35. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 35 is respectfully requested.

Thus, as amended independent claim 35 has been distinguished from Merkin and Dvorak, it is respectfully submitted that dependent claim 36 fails to be rendered obvious based upon the asserted references, alone or in combination, for at least the above-stated reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of this claim is respectfully requested. Claims 35-36 are believed to be in condition for allowance and such favorable action is respectfully requested.

5. Independent Claim 43

Independent claim 43 is directed toward a method of automatically determining that an expectation for a health maintenance item has not been satisfied. The claim recites in part, “searching a set of electronic records for a person; generating an expectation for a health maintenance item for the person, *wherein the health maintenance item includes tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing*

*medical condition or to prevent a patient from developing certain medical conditions; displaying to a clinician the expectation for the health maintenance item on a user interface using one or more computing devices; automatically determining without human intervention, utilizing a first computer process on the one or more computing devices, that the expectation has not been satisfied by comparing the expectation to information selected from one or more of the following: the set of electronic records, a database, and a user input; displaying more than one input option associated with the expectation on the user interface; receiving a selection of at least one of the input options associated with the expectation; updating, utilizing a second computer process on the one or more computing devices, the health maintenance item for the person based on the selection of at least one of the input options, determining, utilizing a third computer process on the one or more computing devices, a health maintenance schedule for the person; and displaying the health maintenance schedule on the user interface, wherein the schedule includes the updated health maintenance item” (emphasis added).* Support for this amendment may be found, for example, at paragraphs [0030]-[0035], [0037] and FIG. 4 of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g., Merkin at ¶ col. 9, ll. 43-45.* A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g. at col 9, ll. 50-53.* If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g., at col. 10, ll. 2-5.* If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient’s

unique circumstances. *See id, e.g.*, at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.*, col. 11, ll. 37-53.

The method described in Merkin is not tied to any type of computing system. The only mention of a computer-related system in Merkin is an electronic medical record used for accessing patient information. Merkin does not, among other things, disclose any type of user interface generated by a computing system *for displaying to a clinician the expectation for the health maintenance item* (a health maintenance item in the present invention is analogous to a preventative health measure in Merkin). Also, the determination that a patient meets the criteria to receive preventative care in Merkin is necessarily performed by a human, which can lead to errors.

Nor does Dvorak cure this deficiency. Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.*, Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.*, at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.*, at ¶ [0035].

The input options in Dvorak are basically a set of available appointment times *and are not associated with an expectation for a health maintenance item* as in the present invention. Instead, they are associated with a doctor's request that a patient return for a follow-up appointment.

Among other distinctions between amended independent claim 43 and the asserted references, *the ability to display an expectation for a health maintenance item on a user*



*interface clearly distinguishes claim 43 from the asserted references.* As mentioned, Merkin does not have the ability to display a preventative health measure (i.e., an expectation for a health maintenance item) to a clinician on a user interface because Merkin is not tied to a computing system. Further, the invention of claim 43 also differs from Merkin in that the determination that a patient has not satisfied the health maintenance item is done automatically *and without human intervention* helping to reduce human-error. Continuing, Dvorak displays a list of possible appointment times (equivalent to a satisfier) on a user interface, but does not display the expectation for a health maintenance item.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 43. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 43 is respectfully requested.

6. Independent Claim 44

Independent claim 44, as amended herein, is directed to a computer-readable medium for performing a method. The claim recites in part, “generating an expectation for a health maintenance item for a person, wherein health maintenance items include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions; automatically *and without human intervention* determining the expectation has not been satisfied, wherein a computing device determines the expectation has not been satisfied; *displaying a health maintenance schedule for the person, including the unsatisfied health maintenance item, on an interface, wherein the health maintenance schedule includes patient identification information, the unsatisfied health maintenance item, a visual indicator indicating a priority*

*status for the unsatisfied health maintenance item, and one or more possible satisfiers for the unsatisfied health maintenance item, the one or more possible satisfiers including orders, procedures, or result values . . .”* (emphasis added). Support for this amendment may be found, for example, at paragraphs [0037], [0055]-[0061] and FIG. 4 of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.,* Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.,* at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient’s unique circumstances. *See id, e.g.,* at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.,* col. 11, ll. 37-53.

The invention disclosed in Merkin is not tied to a computer in any significant way. The only mention of a computerized system in Merkin is an electronic medical record that is used to access a patient’s health information. *See, e.g.,* Merkin at col. 3, ll. 10-14. Thus, *the determination that a patient meets the criteria to receive preventative care is necessarily performed by a human, which can lead to errors.*

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.,* Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.,* at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a

problem or for a follow-up procedure. *See id, e.g.,* at ¶ [0035].

The invention of claim 44 differs from both Merkin and Dvorak. In claim 44, a health maintenance schedule is displayed on a user interface. The health maintenance schedule includes a variety of information including patient identification, an unsatisfied health maintenance item (analogous to a preventative health measure in Merkin), a priority status for the health maintenance item, and one or more satisfiers for the health maintenance item including orders, procedures, or result values. Further, the invention of claim 44 also differs from Merkin in that the determination that a patient has not satisfied the health maintenance item is done automatically *and without human intervention* helping to reduce human-error.

In contrast, Merkin does not display any of this information on an interface. Further, *Dvorak only displays a list of “satisfiers” in the form of available appointment times for a doctor’s visit.* The satisfiers in claim 44 include *orders, procedures, or result values*, and these satisfiers are specifically tied to the health maintenance item as it is defined in claim 44.

Among other distinctions between claim 44 and the asserted references, *the ability to display on an interface, patient identification information, unsatisfied health maintenance items, a priority status, and one or more possible satisfiers for the health maintenance item* clearly distinguishes claim 44 from the Merkin and Dvorak as they are not described in either reference. As well, *the ability to automatically and without human intervention determine that a health maintenance item has not been satisfied also distinguishes claim 44 from Merkin*, as this step in Merkin is performed by a human intermediary which increases the chances of error.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended

independent claim 44. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 44 is respectfully requested.

7. Independent Claim 45

Independent claim 45, as amended herein, is directed to a system for generating satisfiers for an expectation for a health maintenance item. The claim recites in part, “obtaining one or more unsatisfied health maintenance item expectations for a person by applying factors to information associated with the person, *wherein health maintenance item expectations include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions*; obtaining possible satisfiers for each of the one or more unsatisfied expectations, *the possible satisfiers dependent upon an identity of the one or more unsatisfied health maintenance item expectations, the possible satisfiers including orders, procedures, or result values . . .*” (emphasis added). Support for this amendment may be found, for example, at paragraphs [0037], [0043], [0047], [0058]-[0059] and FIG. 4 of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.*, Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.*, at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient’s

unique circumstances. *See id, e.g.*, at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.*, col. 11, ll. 37-53.

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.*, Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.*, at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.*, at ¶ [0035].

In contrast to Dvorak, the satisfiers of claim 45 are *tailored to an identity of the one or more unsatisfied health maintenance item expectations*. Further, *the satisfiers include orders, procedures, or result values*. For example, if the unsatisfied health maintenance item expectation is colorectal screening, the possible satisfiers obtained could include hemoccult testing, sigmoidoscopy, or colonoscopy. But if the unsatisfied health maintenance item expectation is ischemic heart disease, the possible satisfier includes aspirin therapy. In contrast, Dvorak only discloses an array of appointment times as possible satisfiers.

Among other distinctions between independent claim 45 and Dvorak, *the ability to obtain possible satisfiers that are dependent upon an identity of one or more unsatisfied health maintenance item expectations clearly distinguishes claim 45 from Dvorak* as it is not described in Dvorak. Further, *the possible satisfiers in claim 45 include orders, procedures and result values while the possible satisfiers in Dvorak only include appointment times*.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 45. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 45

is respectfully requested.

8. Independent Claim 46

Independent claim 46, as amended herein, is directed to computer-readable medium for performing a method. The claim recites in part, “obtaining, utilizing a first computer process, one or more unsatisfied health maintenance item expectations for a person by searching electronic records, *wherein health maintenance item expectations include tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions; displaying the one or more unsatisfied health maintenance item expectations on a user interface using a computing device; obtaining, utilizing a second computer process, possible satisfiers for each of the one or more unsatisfied expectations; displaying the possible satisfiers for each of the one or more unsatisfied expectations on the user interface, the possible satisfiers displayed in the same viewable area as the one or more unsatisfied health maintenance item expectations . . .*” (emphasis added). Support for this amendment may be found, for example, at paragraph [0037] and FIG. 4 of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.*, Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.*, at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a different provider/health plan, or whether preventative care is warranted based upon the patient’s

unique circumstances. *See id, e.g.*, at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.*, col. 11, ll. 37-53.

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.*, Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.*, at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.*, at ¶ [0035].

Although Merkin discusses preventative health care measure (analogous to health maintenance item expectations in claim 46), *it does not disclose displaying the preventative health care measures on a user interface using a computing device*. Further, although Dvorak displays a list of possible satisfiers in the form of available appointment times, *the satisfiers are not displayed in the same viewable area as the one or more unsatisfied health maintenance item expectations as that term is defined in claim 46*.

Among other distinctions between claim 46 and Merkin, the ability to display on a user interface one or more health maintenance item expectations clearly distinguishes claim 46 from Merkin as it is not described in Merkin. Further, the ability to display possible satisfiers in the same viewable area as the one or more unsatisfied health maintenance item expectations clearly distinguishes claim 46 from Dvorak as Dvorak only displays a lists of possible satisfiers in the form of available appointment times.

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Dvorak fails to describe each and every element as set forth in amended independent claim 46. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 46

is respectfully requested.

C.) Obviousness rejection based upon Merkin in view of Dvorak in further view of U.S. Patent No. 2004/0243619 to Kelly et al.

Claims 8-14 were rejected under 35 U.S.C. § 103(a) as being obvious over Merkin in view of Dvorak in further view of U.S. Publication No. 2004/0243619 to Kelly et al. (hereinafter Kelly). As a *prima facie* case of obviousness cannot be established for rejected claims 8-14 based upon the cited references, alone or in combination, Applicants respectfully traverse the rejection of these claims as hereinafter set forth.

1. Dependent Claims 8-14

Dependent claim 8-14 depend, either directly or indirectly, from amended independent claim 1 discussed above. As discussed above with respect to independent claim 1, Merkin and Dvorak fail to disclose the ability to determine more than one satisfier for a health maintenance item where a satisfier includes an order, a procedure, or a result value. Further, Kelly fails to cure this deficiency, nor is the reference relied upon for such. Rather, Kelly is directed towards a method for generating service reminders based upon the mileage of a vehicle. *See, e.g.*, Kelly at Abstract.

In view of the above, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 8-14 is respectfully requested. Claims 8-14 are believed to be in condition for allowance and such favorable action is respectfully requested.



D.) Obviousness rejection based upon Merkin in view of U.S. Patent No. 5,737,539 to Edelson in further view of Dvorak

Claims 37-42 and 48 were rejected under 35 U.S.C. § 103(a) as being obvious over Merkin in view of U.S. Patent No. 5,737,539 to Edelson in further view of Dvorak. As a *prima facie* case of obviousness cannot be established for rejected claims 37 and 39-42 based upon the cited references, alone or in combination, Applicants respectfully traverse the rejection of these claims as hereinafter set forth.

1. Independent Claim 37

Independent claim 37, as amended herein, is directed toward a computer system capable of determining whether a patient may experience an adverse reaction to a satisfier chosen for an expectation for a health maintenance item. The claim recites in part, “a third determining module for determining a recommended satisfier for the expectation, *wherein the satisfier is an order for a medication . . . [and] a displaying module for displaying the updated patient schedule, including the satisfier*, wherein the satisfier is selectable to view the input associated with the satisfier” (emphasis added). Support for this amendment may be found, for example, at paragraph [0040] and FIG. 4 of the as-filed Specification.

Merkin describes a method for rendering preventative care to patients within a patient population. *See, e.g.*, Merkin at ¶ col. 9, ll. 43-45. A patient is identified who meets the criteria to receive applicable preventative care. *See id, e.g.* at col 9, ll. 50-53. If the patient meets the criteria to receive preventative care, preventative care is administered to the patient according to conventional practices. *See id, e.g.*, at col. 10, ll. 2-5. If a patient has not yet received appropriate preventative care, an assessment is made to determine if the patient is actually eligible to receive preventative care, has otherwise received the preventative care from a

different provider/health plan, or whether preventative care is warranted based upon the patient's unique circumstances. *See id, e.g.,* at col. 4, ll. 21-29. Merkin also discusses contacting the patient to schedule appropriate preventive care. *See id, e.g.,* col. 11, ll. 37-53.

Dvorak discloses a system that allows self-scheduling of medical appointments by patients. *See, e.g.,* Dvorak at ¶ [0010]. Patients can access a Web page and select an appointment time from a set of available appointment times. *See id, e.g.,* at ¶ [0036], FIG. 2. A doctor authorizes the patient to schedule their own appointments in order to follow up on a problem or for a follow-up procedure. *See id, e.g.,* at ¶ [0035].

Claim 37 differs from Dvorak in that the *possible satisfier includes an order for a medication and not just an available appointment time*. Further the *satisfier is for the expectation for the health maintenance item*, where the health maintenance item includes tests, screenings, procedures, therapies, and medications recommended to prevent worsening of a pre-existing medical condition or to prevent a patient from developing certain medical conditions. In contrast, *the expectation in Dvorak is a request from a doctor that the patient return for a follow-up visit*.

Further, Edelson fails to cure this deficiency, nor is the reference relied upon for such. Rather, Edelson is directed toward a prescription-creation service that checks for drug allergies. *See, e.g.,* Edelson at col. 31, ll. 8-46

For at least the above-cited reasons, it is respectfully submitted that Merkin in combination with Edelson and Dvorak fails to describe each and every element as set forth in amended independent claim 37. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 37 is respectfully requested.

Thus, as amended independent claim 37 has been distinguished from the asserted references, it is respectfully submitted that dependent claims 39-42 fail to be rendered obvious based upon the asserted references, alone or in combination, for at least the above-stated reasons. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection of these claims is respectfully requested. Claims 37 and 39-42 are believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 38 and 48 have been cancelled by way of the present communication and, as such, the 35 U.S.C. § 103(a) rejection thereof has been rendered moot.

### **CONCLUSION**

For at least the reasons stated above, each of claims 1-4, 7-9, 12-16, 23-37, and 39-46 is believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned—by telephone at 816-474-6550 or via email at [jdickman@shb.com](mailto:jdickman@shb.com) (such communication via email is herein expressly granted)—to resolve the same prior to issuing a subsequent action.

The fee for a Request for Continued Examination and the two-month extension is submitted herewith by way of electronic payment. It is believed that no additional fee is due. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number CRNI.110337.

Respectfully submitted,

/Jean M. Dickman/

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